



October 19, 2005

Arthur Neal, Director of Program Administration  
National Organic Program, USDA-AMS-TMP-NOP  
1400 Independence Ave. S.W.  
Room 4008-So., Ag Stop 0268  
Washington, DC 20250

This will be E-mailed to: [National.List@usda.gov](mailto:National.List@usda.gov) and mailed to above address.

Dear Mr. Neal and National Organic Program,

Please accept these written comments on the proposed rule published in the federal register on September 16, 2005 – docket number TMD-04-01.

**Comment:**

From October 2000 through April 2004 the NOSB voted to recommend that *Activated Charcoal*, *Ammonium hydroxide*, *Cyclohexylamine*, *Diethylaminoethanol*, *Octadecylamine*, *Peracetic acid/Peroxyacetic acid* and *Tetrasodium pyrophosphate* be added to section 205.605(b) for use in handling agricultural products labeled “organic”. In proposed rule docket number TMD-04-01 the Secretary amends the NOSB recommendation for use only in the “made-with” label and prohibits their use in the “organic” label.

If this recommendation is enforced then severe commercial disruption will take place for current products certified under the “organic” label. Up to date, some of these materials may have been allowed under the Food Contact Substance Policy dated December 12, 2002 (see NOSB recommendation dated April 15, 2004). For example;

- Activated Carbon is used as a filtering agent during the processing of organic white grape juice concentrate. Organic White Grape Juice is used as a sweetener in many products such as beverages; candies, yogurts, chocolates, cereals etc. ;
- Peroxyacetic acid is currently used in most food processing facilities as a sanitizer for fresh fruits/vegetables and on processing equipment.
- Boiler Chemicals are used to temper glass during the manufacturing of most products packaged in glass packaging, and also in many other manufacturing processes.

While we acknowledge that the Secretary and National Organic Program must recognize and comply with the court order regarding *Arthur Harvey v. Veneman/Mike Johanns* dated June 9, 2005. We don't agree that any action regarding 205.605(b) should be taken until mandated by the Courts. The final judgment and order states that;

“So as to prevent consumer confusion, commercial disruption and unnecessary litigation, the Secretary shall temporarily exempt nonconforming products placed in the stream of commerce as organic, while new rules are being promulgated and afterward, while producers, handlers and processors come into compliance with them. The new implementing rules shall become effective two years after the date of this order and judgment (June 2007), after which no non-conforming products may enter the stream of commerce.”

#### **Affected materials we are concerned about:**

***Activated charcoal*** – annotation: only from vegetative sources; for use only as a filtering aid in handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

***Ammonium hydroxide*** – annotation: for use only as a boiler water additive until October 21, 2005. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

***Cyclohexylamine*** - annotation: for use only as a boiler water additive for packaging sterilization. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

***Diethylaminoethanol*** - annotation: for use only as a boiler water additive for packaging sterilization. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

***Octadecylamine*** - annotation: for use only as a boiler water additive for packaging sterilization. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

***Peracetic acid/Peroxyacetic acid*** – annotation: for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces. Restricted to handling agricultural products labeled “made with organic (specified ingredients or food group(s)); “Prohibited in handling agricultural products labeled “organic.”

**We strongly encourage the Secretary and National Organic Program to be consistent with the recommendations of the National Organic Standards Board and with the Court order to allow these materials to be used in the “organic” label until which time the Secretary is mandated to implement new rules as a result of Harvey v. Veneman/Johanns.**

Sincerely,

A handwritten signature in black ink that reads "Dag Falck". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Dag Falck  
Nature's Path Organic Program Manager  
e-mail: [dfalck@naturespath.com](mailto:dfalck@naturespath.com)  
Direct phone: 604 248 8877

Nature's Path Foods, Inc.  
9100 Van Horne Way, Richmond, BC, V6X 1W3 Canada  
Ph: 604 248 8777 Fax: 604 248 8760  
***Nurturing People, Nature & Spirit.***  
[www.naturespath.com](http://www.naturespath.com)